

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED101236
)	Appeal from the Circuit Court of
vs.)	the City of St. Louis
)	Honorable Christopher E. McGraugh
CARLTON PORTER, Appellant.)	Filed: June 16, 2015

Carlton Porter (Defendant) appeals the judgment of conviction entered by the Circuit Court of the City of St. Louis after a jury found him guilty of trafficking drugs in the second degree, possession of a controlled substance with the intent to distribute, and possession of drug paraphernalia with the intent to use. Defendant claims that the trial court erred in: (1) overruling his motion for judgment of acquittal on the charge of possession of drug paraphernalia with the intent to use; and (2) failing to dismiss on double jeopardy grounds the charge of possession of a controlled substance with the intent to distribute.

AFFIRMED.

Division Four Holds: The trial court did not err in overruling Defendant's motion for judgment of acquittal on the charge of possession of drug paraphernalia with the intent to use because the record contained evidence that Defendant intended the paraphernalia to be used by others to ingest, inhale, or otherwise introduce into the human body a controlled substance. The trial court did not err in failing to dismiss on double jeopardy grounds the charge of possession of a controlled substance with the intent to distribute because possession of a controlled substance with the intent to distribute and trafficking drugs in the second degree do not apply to the same criminal conduct and trafficking is not a specific instance of possession.

Opinion by: Patricia L. Cohen, P.J.
Roy L. Richter, J., and Robert M. Clayton III., J., concur.

Attorney for Appellant: Jessica Hathaway
Attorney for Respondent: Shaun J. Mackelprang

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
